A FRAMEWORK FOR POLICE PREPAREDNESS FOR ABORIGINAL CRITICAL INCIDENTS

FIELD SUPPORT BUREAU
PROVINCIAL COMMAND, FIELD & TRAFFIC SERVICES

INTRODUCTION

The Ontario Provincial Police (OPP) is committed to safeguarding the individual rights enshrined within Federal and Provincial laws, inclusive of those specifically respecting the rights of Aboriginal persons of Canada as set out in the Canadian Charter of Rights and Freedoms. The OPP recognizes that conflicts may arise as Aboriginal communities and the various levels of government work to resolve outstanding issues associated with matters such as land claims, self-determination and Aboriginal or treaty rights, which may relate to education, hunting and fishing. It is the role of the OPP and all of its employees to make every effort prior to a critical incident to understand the issues and to protect the rights of all involved parties throughout the cycle of conflict.

Purpose

The purposes of the document are threefold:

- promote an operationally sound, informed and flexible approach to resolving conflict and managing crisis in a consistent manner;
- offer a framework that demonstrates accommodation and mutual respect of differences, positions and interests of the involved Aboriginal community and the OPP; and
- promoting and developing strategies that minimize the use of force to the fullest extent possible.

Definition of Term Aboriginal

For the purposes of this document the term Aboriginal refers to a collective group including; Status Indians (as defined by the federal Indian Act), Non-status Indians, Mêtis and Inuit. The term First Nation, when used refers to Indian Band (as defined by the federal Indian Act).

Applicability

Critical Incidents are often avoidable. The benefits of this framework are maximized if put to use well before any Aboriginal related issue becomes a critical incident. The framework can be applied before, during and after any Aboriginal related critical incident where the source of conflict may stem from assertions associated with Aboriginal or treaty rights, e.g. colour of right, a demonstration in support of a land claim, a blockade of a transportation route, an occupation of local government buildings, municipal premises, provincial/ federal premises or First Nation buildings.

Recognizing that disputes may, and often do, originate with government agencies other than the police, this framework applies to the negotiation and mediation of police-related issues surrounding a dispute.

Resources

The Aboriginal Liaison, Operations Officer is a member of the OPP reporting to the Office of the Commissioner and as a provincial resource will:

- foster trusting relationships between the OPP and Aboriginal communities;
- maintain contacts within Aboriginal communities throughout the province;
- remain current on Aboriginal issues;
- assist in facilitating communications during any Aboriginal related dispute, conflict or critical incident; and
- provide informed advice to OPP Executive and incident commanders regarding Aboriginal issues.

Aboriginal Relations Teams

- Aboriginal Relations Teams (ART) provide specialized support and assistance in the spirit of partnership in building respectful relations between police services and Aboriginal peoples and communities while honouring each one's uniqueness and the Creators gifts with dignity and respect, including:
- fostering trusting relationships between the OPP and Aboriginal communities;
- maintaining contacts within local and regional Aboriginal communities;
- remaining current on issues related to local Aboriginal communities;
- sharing information with each other;
- assisting in facilitating communications during any Aboriginal related dispute, conflict or critical incident; and
- providing informed advice to the Aboriginal Liaison, Operations Officer, OPP regional command staff and incident commanders regarding Aboriginal issues.

Critical Incident Mediator

A Critical Incident Mediator is a member who during an Aboriginal related critical incident:

- meets with Aboriginal representatives and communicates police interests;
- listens for and identifies key issues and interests of the Aboriginal representatives;
- communicates these issues and interests to the incident commander; and
- develops in concert with the incident commander a mutually acceptable and lasting resolution strategy.

HOW TO USE THIS FRAMEWORK

Use of Framework

Conflicts cycle through recognized stages, i.e. pre-critical incident, critical incident and post-critical incident. This Framework provides incident commanders, detachment and regional members with an overview of what signs, behaviours and cues may be present and suggests resolution techniques available at each of the 3 stages of conflict to avoid, de-escalate or appropriately manage the situation. It is strongly recommended that this Framework be used well before the existence of any critical incident requiring police action.

Pre-Critical Incident

The backbone of this Framework is for OPP employees to develop effective working relationships with Aboriginal communities. These relationships will lay a foundation of respect and understanding for each other that will be important during a dispute. ART officers should be actively engaged as the Framework is being implemented.

What to look for...

- real or perceived inequities in privilege or power exist within the community or between the community and society;
- an initiative or event is being planned that could lead to conflict;
- there exists a high probability that an ongoing initiative or event could lead to conflict or crisis;
- words and images used to describe an initiative or event could generate negative emotions, dissension, disagreement, or conflict;

- involved persons are stating that if an initiative or event is not dealt with sensitively, a conflict or crisis will ensue.

What can be done...

- remain informed of issues of concern by participating in discussions with First Nation Councils (as defined by the Indian Act), First Nations police, community members/groups, other levels of Aboriginal leadership, etc. Ensure ART members/First Nations liaison officer are linked into such discussions or are kept informed of the content
- consider the policing implications of the local issues previously identified;
- complete the First Nations/Aboriginal Community Feature Sheet;
- be open, talk to all parties;
- develop and display respect for all concerned by listening;
- always be honest. Overt and consistent honesty is the best way to earn trust;
- build positive trusting relationships with members of the community, First Nations police officers and other agencies;
- consult with community leaders on potentially conflicting issues using existing opportunities for dialogue;
- encourage people to come together around issues and activities where agreement exists;
- notify the Aboriginal Liaison, Operations Officer of local issues through established chain of command;
- pre-identify community and agency representatives who can serve as resource persons or mediators;
- review the local emergency plan to see if it adequately addresses potentially conflicting situations, e.g. plan outlines diversion routes, identifies likely blockade locations;
- contact elected and traditional leaders of the community if an issue arises that may precipitate a dispute or conflict.

Critical Incident

At this stage involved persons may have become increasingly frustrated that their issues have not been appropriately addressed. A range of possibilities exists as to how the critical incident may evolve—from a passive demonstration to one where the public is significantly affected, e.g. blockage of transportation route.

Strategy Opportunity

It is imperative for police to ensure all parties to the critical incident have the opportunity to contribute to strategies for resolution. Employees will rely on established relationships for effective communication between themselves and persons involved in the critical incident as well as the other members of the community.

Transparency

It is important for police to provide options that are transparent to the parties in conflict to promote a positive resolution to the critical incident. To accomplish this, members need to state their position and intentions clearly so they will be understood by all. This can potentially defuse a critical incident and provide the opportunity to compromise.

What to look for...

- questions from involved persons are not being satisfactorily addressed;
- comments related to the critical incident increase in frequency or intensity and indicate greater likelihood of crisis;
- positions being communicated become increasingly entrenched and polarized;
- involved persons become increasingly vocal, forceful and threatening;
- demands are being made known to police directly or through the media;
- conciliatory efforts may be ineffective given the stage of the critical incident;
- the media may increase its coverage of the event and further divide positions;
- persons or agencies not directly involved in the critical incident may take public positions concerning the dispute;
- persons—who may include leaders—from the Aboriginal community may look for police personnel who have Aboriginal ancestry to assist as a point of communication.

What can be done...

This section is subdivided into positions that are articulated by participants involved in the critical incident, police interests as they relate to our concerns and priorities and the procedures performed during the course of the critical incident.

Position

- emphasize that negotiations will be used at every opportunity;
- communicate to disputants that all demonstrators and other members of the public will be treated with dignity and respect;
- state the role of First Nations police officers, local OPP personnel and the various specialized units present during the dispute, e.g. ART, Critical Incident Mediator, Emergency Response Team (ERT);
- seek agreement on how disputants will voice their issues;
- seek out aspects of the dispute where agreement exists;
- explain that police, whenever possible, will respect core cultural values;
- respond to conflict with minimal use of force;
- explain that if need be, a cooling off period and its length will be jointly agreed to, if possible;
- explain that it is the intention of police to maintain the orderly flow of traffic while allowing participants to lawfully demonstrate; and where possible attempt to re-route traffic in order to avoid confrontation and minimize impact on public.

Interests

- establish the policing interests as they relate to the dispute at hand;
- establish with disputants a means by which information and progress will be communicated to media;
- ensure members are kept informed verbally;
- acknowledge the existence of the dispute within the critical incident;
- re-acquaint yourself with cultural values particular to that First Nation community;
- identify the organizational structure of the disputants and key external persons;
- consider the impact on member safety and that of the demonstrators and other members of the public as decisions are made;
- take every opportunity to facilitate productive communications.

Procedures

At this stage the Provincial Commander, Field and Traffic Services must consider assigning a Level 2 incident commander (L2IC), in accordance with Police Orders, Chapter 5—Major Incident Command, to be the lead incident commander (IC) for the duration of the critical incident.

In such circumstances, the incident commander will be responsible for:

- maintaining regular contact with the Aboriginal Liaison, Operations Officer;
- considering and arranging for appropriate OPP resources, e.g. ART, Critical Incident Mediator, ERT;
- identifying a negotiator or mediator (assisted negotiation) who will speak on behalf of all police matters—it may be advisable to engage a Crisis Negotiator or ART member of Aboriginal ancestry;
- identifying persons who can speak the relevant dialect or language.

Post Critical Incident

What to look for...

- persons in dispute are emotionally and physically exhausted;
- disputants may hide evidence related to the critical incident;
- parties may deny the existence of a dispute or crisis; and
- parties may want to reflect on what has just occurred and want to discuss the lessons learned and identify peace-building actions.

What can be done...

- involve, where applicable, ART members or First Nations liaison officers as a culturally appropriate conflict resolution strategy;
- maintain through the ART members or First Nations liaison officer, a continued OPP presence which can respond immediately to local community questions or concerns relating to the role either local detachment personnel or emergency management services performed during the critical incident;
- encourage a non-confrontational meeting to discuss with the disputants the lessons learned from the crisis;
- consider who needs to be involved as well as who can best represent the OPP;
- facilitate a session where police and parties in conflict can establish an action plan that addresses the damage done during the dispute or crisis;

- consider who needs to be involved in the operational review, when best to conduct the review and where;
- conduct an operational review.

SCHEDULE "A"

Constitution Act, 1982 (79)

Enacted as Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11, which came into force on April 17, 1982

PART I

Canadian Charter of Rights and Freedoms

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

PART II

Rights of the Aboriginal Peoples of Canada

Recognition of existing aboriginal and treaty rights

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Definition of "aboriginal peoples of Canada"

(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements

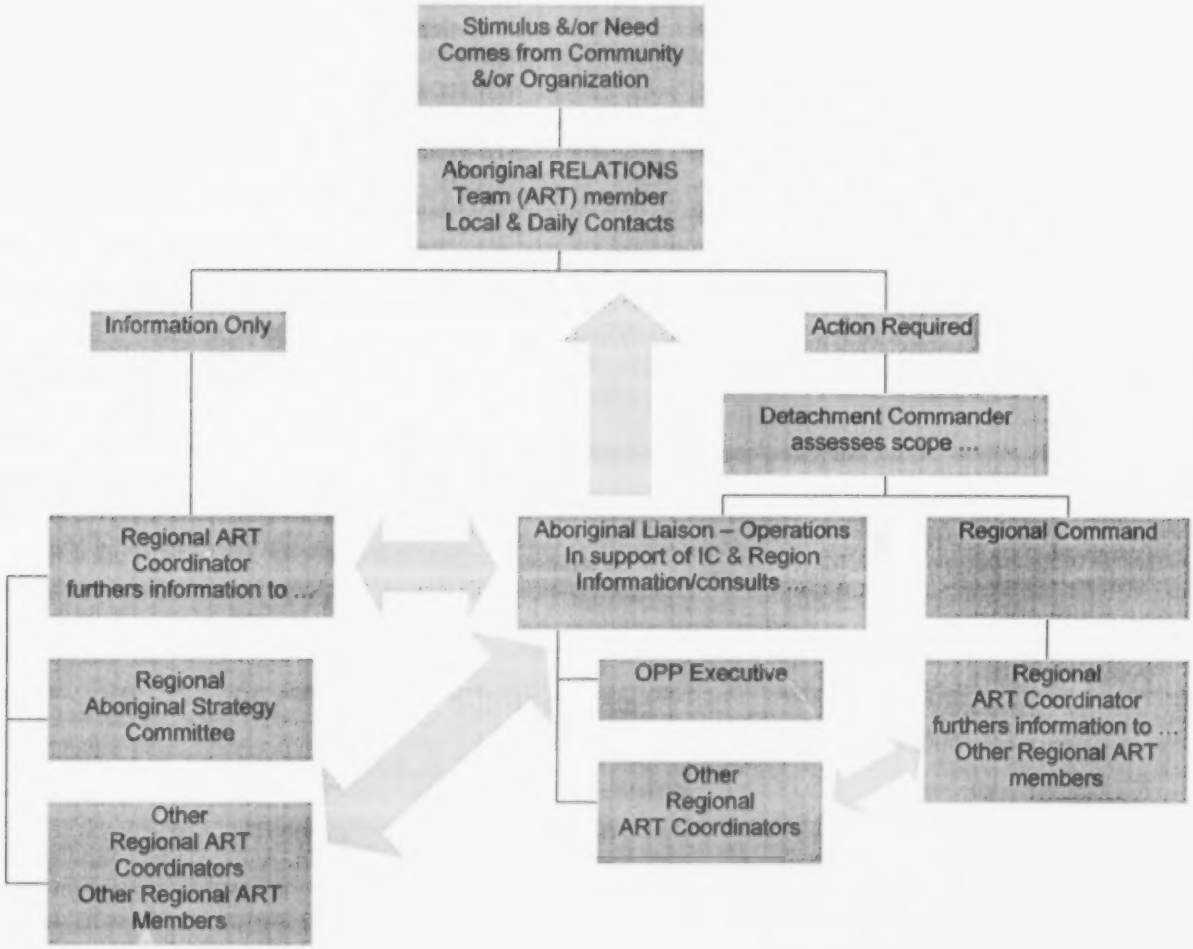
(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

Aboriginal and treaty rights are guaranteed equally to both sexes

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

SCHEDULE "B"

ART
Concept of Operations


Stimulus &/or Need Comes from Community &/or Organization
Aboriginal RELATIONS Team (ART) member Local & Daily Contacts
Information Only
Action Required
Detachment Commander assesses scope ...
Regional ART Coordinator furthers information to ...
Aboriginal Liaison – Operations In support of IC & Region Information/consults ...
Regional Command
Regional Aboriginal Strategy Committee
OPP Executive
Regional ART Coordinator furthers information to ... Other Regional ART members
Other Regional ART Coordinators Other Regional ART Members
Other Regional ART Coordinators

*Orange Arrows indicate the communication that could occur between the Aboriginal Liaison – Operations and other OPP offices.

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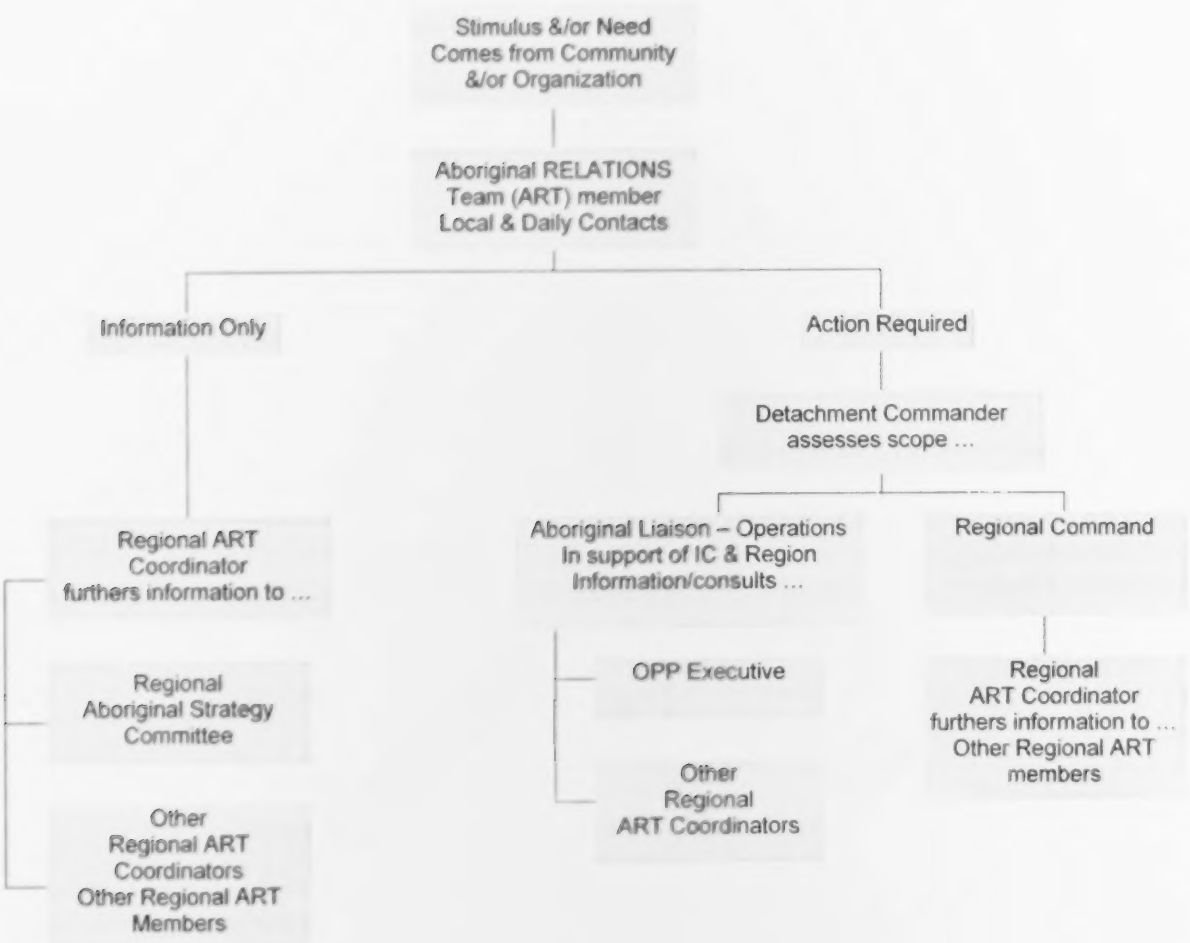
Concept of Operations



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